

ARTICLE APPEARED
ON PAGE 1-12

THE NEW YORK TIMES
21 April 1978

SENATE PASSES BILL TO BAR BUGGING IN U.S. WITHOUT COURT ORDER

SPECIAL APPROVAL IS NEEDED

Measure's Future May Depend on a Case in Which President Ordered Surveillance

By NICHOLAS M. HORROCK

Special to The New York Times

WASHINGTON, April 20—The Senate overwhelmingly approved a bill today that would end the use of electronic surveillance in the United States without a court order.

By a vote of 95 to 1, the Senate passed legislation that would require Federal intelligence agencies to obtain permission from one of seven selected Federal judges before they could use electronic surveillance techniques in national security cases.

The use of electronic surveillance in domestic criminal matters is already regulated under the terms of the 1968 omnibus crime act. Today's measure is the product of 10 years of debate in Congress, among the intelligence agencies and among the public, over whether the President had the power to use wiretaps, room bugs and other intrusive devices without court approval in cases where harm to the national security is suspected.

'Erode Support for Legislation'

Several Congressional sources said that the political future of the bill could be materially affected by court rulings in an espionage case brought by the Department of Justice last January in which President Carter ordered a wiretap, a room bug, secret television surveillance and a search without judicial warrants.

On Jan. 31, a Federal grand jury, using evidence obtained in the surveillance, indicted David Truong, a Vietnamese expatriate living in the United States, and Ronald L. Humphrey, an officer for the United States Information Agency, on charges of espionage.

Congressional sources said that if the Supreme Court were to confirm the President's power to order surveillance, it "would erode support for electronic surveillance legislation."

Senator Edward M. Kennedy, Democrat of Massachusetts, who was a co-sponsor of the bill, warned his colleagues today that "the recent prosecution against Humphrey and Truong point out the need for this legislation. Without S. 1566," he said, referring to the bill's number, "serious constitutional issues are raised by the case." Senator Kennedy said that the bill would resolve the constitutional issues "and must be dealt with expeditiously."

A similar bill is expected to receive final editing by members of the House Select Committee on Intelligence, and there is pressure to obtain passage in this session of Congress.

Under the terms of the bill, a Federal intelligence agency could install electronic surveillance devices in the United States only after a senior official, such as the Director of Central Intelligence, had certified that the purpose of the surveillance was to seek important foreign intelligence.

The Attorney General would have to find that the request meets the standards of the law, and then a request for permission to install the device would be obtained from one of the Federal judges. The judges who could give such permission would be decided by the Chief Justice of the Supreme Court.

How long the surveillance could be maintained would depend on whether the target was an American citizen, a foreign national or a foreign embassy or other installation.

The essence of the bill's provisions were prepared by members of the Senate Judiciary Committee and the Senate Intelligence Committee in conjunction with former Attorney General Edward H. Levi. The Carter Administration supported the proposals.

The Attorney General, Griffin B. Bell, said in an address prepared for delivery to the Yale Law Journal banquet tonight that the Administration is "hopeful for its passage."

The bill was also praised by officials of the American Civil Liberties Union and of the Center for National Security Studies, a liberal research group in Washington.

The sole opponent to the bill in the

Senate today, Senator William Scott, Republican of Virginia, may have spoken for widespread opinion among intelligence officials when he noted that he opposed the bill because it would inhibit the activities of United States counterintelligence officials.

Several current and former senior intelligence officials have said that it endangers security to bring the Federal judges into the operation of electronic surveillance in national security cases and that the President's power should not be restricted by the court.

Using Media Members as Agents

If the bill were passed even after a Supreme Court ruling supporting the President's power to order surveillance, the bill would become the controlling law.

In an unrelated action today, Admiral Stansfield Turner, the Director of Central Intelligence, told a House subcommittee that he believes he should have the power to recruit from among people in the news business if emergency conditions dictated it.

Mr. Turner testified at hearings of a subcommittee of the House Select Committee on Intelligence that is investigating whether the intelligence agencies can properly use members of the media as undercover agents.

Mr. Turner issued regulations last December that virtually rule out recruiting accredited American journalists, for pay or not, by the Central Intelligence Agency. But the regulations left Mr. Turner the right to abrogate the regulations if he saw fit. He testified today that he believed this power would only be used in extreme emergencies where recruiting a journalist might be instrumental in dealing with a critical national security problem.

STAT